

**Babcock & Wilcox Company  
Asbestos Personal Injury Settlement Trust  
(Revised August 2, 2019)**

July 7, 2006

Dear Prospective Claimant or Claimant Counsel,

The Babcock & Wilcox Asbestos Personal Injury Settlement Trust (“the Trust”) has been established under Chapter 11 of the Bankruptcy Code to resolve all asbestos claims for which the Babcock & Wilcox Company (“B&W”) has legal responsibility. The Trust is organized to provide fair, equitable and substantially similar treatment for all personal injury claims that may presently exist or arise in the future.

**The Trust is commencing its operations and will begin receiving and processing claims on Monday, July 17, 2006. Claim Forms, the Trust Distribution Procedures (TDP) and associated materials necessary to file a claim with the Trust are included in this package. Copies of the Claim Form as well as these instructions and other relevant documents also are available on the Trust’s website ([www.bwasbestostrust.com](http://www.bwasbestostrust.com)), and may be downloaded at any time.**

This instruction letter is intended to summarize certain of the more salient issues related to filing a personal injury claim with the Trust. *Nothing in this letter is intended to replace or modify the requirements of the Babcock & Wilcox Asbestos Personal Injury Settlement Trust Distribution Procedures (“the TDP”). All claimants are encouraged to thoroughly read and understand the TDP (enclosed) before filing a claim with the Trust.*

**Types Of Claims That May Be Filed:**

Per the instructions in Sections 5.3(a) and 5.3(b) of the TDP, a claimant may elect to submit a claim for Expedited Review (ER) or Individual Review (IR). The ER process is designed primarily to provide an expeditious, efficient and inexpensive method for liquidating all categories of PI Trust claims (except those involving Lung Cancer 2 and all Foreign Claims). It is the intention that ER claims can be easily verified by the Trust as meeting the presumptive Medical/Exposure criteria for the relevant disease level and will provide qualifying claimants a fixed and certain claims payment (see Scheduled Values below). ER thus provides claimants with a substantially less burdensome process for pursuing PI Trust claims than the IR process described below and in Section 5.3(b) of the TDP.

Alternatively, a claimant may elect to have a claim undergo the Individual Review process for purposes of determining (a) whether the liquidated claims value exceeds the Scheduled Value for Disease Levels IV, V, VII or VIII only or (b) if the claim does not meet presumptive Medical/Exposure criteria for any of the Disease Levels in TDP Section 5.3, whether such claim is nonetheless compensable. The IR Process provides the claimant with an opportunity for individual consideration and evaluation of the medical/exposure information submitted as well as the liquidated value of the claim. The IR Process is intended to result in payments equal to the full liquidated value for each claim multiplied by the Payment Percentage; however, the liquidated value of any PI Trust Claim that undergoes IR may be determined to be less than the claimant would have received under ER. Because the detailed examination and valuation process related to

IR requires substantial time and effort, claimants electing to undergo the IR Process may be paid the liquidated value of their PI Trust claims later than would have been the case had the claimant elected the ER process.

**Order In Which Claims Will Be Considered:**

Prior to January 17, 2007 (the Initial Claim Filing Date), Claims deemed to be complete by the Trust will be ordered for processing based on the earlier of:

- i. The date prior to February 22, 2000 (the “Petition Date”) that the claim was either filed against B&W in the tort system or submitted to B&W pursuant to an administrative settlement agreement;
- ii. The date prior to February 22,2000 that a claim was filed against another defendant in the tort system if at the time the claim was subject to a tolling agreement with B&W;
- iii. The date after February 22,2000 but before January 17, 2007 that the claim was filed against another defendant in the tort system;
- iv. The date the claim was filed in the Bankruptcy Court pursuant to the Court’s bar date order; or
- v. The date a ballot was submitted on behalf of the claimant for purposes of voting to accept or reject the Plan.

Claims will be ordered for payment in the order in which they are evaluated and liquidated.

**Claim Values:**

Valid ER claims will be paid the following Scheduled Values, multiplied by the Payment Percentage that is effective at the time of liquidation. Disease Level I claims are not subject to the Payment Percentage.

<u>Disease Level</u>	<u>Scheduled Disease</u>	<u>Scheduled Value</u>
VIII	Mesothelioma	\$90,000
VII	Lung Cancer 1	\$35,000
VI	Lung Cancer 2	None
V	Other Cancer	\$18,500
IV	Severe Asbestosis	\$35,000
III	Asbestosis/Pleural Disease Level III	\$10,000
II	Asbestosis/Pleural Disease Level II	\$5,000
I	Other Asbestos Disease (Cash Discount Payment)	\$250

Level VI Claims are claims that do not meet the more stringent medical and/or exposure requirements of Lung Cancer 1 (Level VII) Claims. There is no Scheduled Value for these Level VI Claims; rather they must be filed as IR claims and individually evaluated. The estimated anticipated average of the individual awards for a valid claim in this category is \$15,000 (which is subject to the applicable payment percentage).

*The current payment percentage is 6.3%. At this payment percentage, a Mesothelioma claim paid at scheduled value will receive \$5,670, a Lung Cancer Level I claim or Severe Asbestosis Disease claim will receive \$2,205 an Other Cancer claim will receive \$1,165.50, etc. The payment percentage is subject to adjustment by the Trustees under the terms of the TDP. Payment will be made as soon as practicable after receipt and review of the completed Claim Forms and receipt of a fully executed release.*

**Criteria For Qualification:**

The criteria that a Claim must meet to receive an offer for the Scheduled Value are as follows: Level VIII: Mesothelioma

1. Diagnosis of Mesothelioma; and
  
2. B&W Exposure prior to December 31, 1982 as defined in Section 5.7(b)(3) of the

TDP. Level VII: Lung Cancer 1

1. Diagnosis of a primary lung cancer plus evidence of an underlying Bilateral Asbestos-Related Nonmalignant Disease as defined in Footnote 3 of the TDP;
2. Six months of B&W Exposure prior to December 31, 1982;
3. Significant Occupational Exposure to asbestos as defined in Section 5.7(b)(2) of the TDP; and
4. Supporting medical documentation establishing asbestos exposure as a contributing factor in causing the lung cancer in question.

Level VI: Lung Cancer 2

1. Diagnosis of a primary lung cancer;
2. B&W Exposure prior to December 31, 1982; and
3. Supporting medical documentation establishing asbestos exposure as a contributing factor in causing the lung cancer in question.

Lung Cancer 2 (Level VI) claims are claims that do not meet the more stringent medical and/or exposure requirements of Lung Cancer 1 (Level VII) claims. All claims in this Disease Level shall be individually evaluated. The estimated likely average of the individual evaluation awards for this category is \$15,000, with such awards capped at \$50,000 unless the claim qualifies for Extraordinary Claim treatment.

Level VI claims that show no evidence of either an underlying Bilateral Asbestos-Related Non-malignant Disease or Significant Occupational Exposure may be individually evaluated, although it is not expected that such claims shall be treated as having any significant value, especially if the claimant is also a smoker. In any event, no presumption of validity shall be available for any claims in this category.

Level V: Other Cancer

1. Diagnosis of a primary colorectal, laryngeal, esophageal, pharyngeal, or stomach cancer, plus evidence of an underlying Bilateral Asbestos-Related Nonmalignant Disease;
2. Six months B&W Exposure prior to December 31, 1982;
3. Significant Occupational Exposure to asbestos; and
4. Supporting medical documentation establishing asbestos exposure as a contributing factor in causing the other cancer in question.

Level IV: Severe Asbestosis

1. Diagnosis of asbestosis with ILO of 2/1 or greater, or asbestosis determined by pathological evidence of asbestos, plus (a) TLC less than 65% or (b) FVC less than 65% and FEV1/FVC ratio greater than 65%;
2. Six months B&W Exposure prior to December 31, 1982;
3. Significant Occupational Exposure to asbestos; and
4. Supporting medical documentation establishing asbestos exposure as a contributing factor in causing the pulmonary disease in question.

Level III: Asbestosis/Pleural Disease

1. Diagnosis of Bilateral Asbestos-Related Nonmalignant Disease, plus (a) TLC less than 80%, or (b) FVC less than 80% and FEV1 /FVC ratio greater than or equal to 65%;
2. Six months B&W Exposure prior to December 31, 1982;
3. Significant Occupational Exposure to asbestos; and
4. Supporting medical documentation establishing asbestos exposure as a contributing factor in causing the pulmonary disease in question.

Level II: Asbestosis/Pleural Disease

1. Diagnosis of Bilateral Asbestos-Related Nonmalignant Disease;
2. Six months B&W Exposure prior to December 31, 1982; and
3. Five years cumulative occupational exposure to asbestos.

### Level I: Other Asbestos Disease (Cash Discount Payment)

1. Diagnosis of Bilateral Asbestos-Related Nonmalignant Disease or an asbestos-related malignancy other than mesothelioma; and
2. B&W Exposure prior to December 31, 1982.

#### **Proof Required To Qualify For Payment:**

To qualify for payment, a claimant must provide credible medical and exposure evidence and a submission deemed to be complete by the Trust.

##### ***Evidence Required to Establish B&W Exposure:***

To qualify for any Disease Category, the claimant must demonstrate meaningful and credible exposure, which occurred prior to December 31, 1982, to asbestos or asbestos-containing products (including boilers) supplied, specified, manufactured, installed, maintained or repaired by B&W and/or any entity for which B&W has legal responsibility. Working at a site prior to December 31, 1982, in the proximity of a B&W boiler during a time period in which the Trust has established the presence of a B&W boiler, or in the proximity of the performance of services by a B&W entity shall constitute presumptive evidence of exposure. A current list of the approved exposure sites is available on the Trust's website ([www.bwasbestostrust.com](http://www.bwasbestostrust.com)). As additional sites are identified they will be added to this list. For other sites, the Trust shall consider meaningful and credible evidence, including an affidavit or sworn statement of the claimant, an affidavit or sworn statement of a co-worker or the affidavit or sworn statement of a family member in the case of a deceased claimant, invoices, employment, construction or similar records, interrogatory answers, a sworn work history, a deposition, or other credible evidence.

##### ***Evidence Required to Establish Significant Occupational Exposure (SOE)***

Disease levels VII, V, IV, and III require a showing of Significant Occupational Exposure to asbestos. Significant Occupational Exposure means employment for a cumulative period of at least five years with a minimum of two years prior to December 31, 1982, in an industry and an occupation in which the claimant (a) handled raw asbestos fibers on a regular basis; (b) fabricated asbestos-containing products so that the claimant in the fabrication process was exposed on a regular basis to raw asbestos fibers; (c) altered, repaired or otherwise worked with an asbestos-containing product such that the claimant was exposed on a regular basis to asbestos fibers; or (d) was employed in an industry and occupation such that the claimant worked on a regular basis in close proximity to workers engaged in the activities described in (a), (b) and/or (c). A listing of those occupations where Significant Occupational Exposure to asbestos-related products is presumed is available on the Trust's website ([www.bwasbestostrust.com](http://www.bwasbestostrust.com)).

##### ***Medical Evidence Required to Establish an Asbestos-Related Disease:***

All diagnoses of a Disease Level shall be accompanied by either:

- i. a statement by the physician providing the diagnosis that at least ten years have elapsed between the date of first exposure to asbestos or asbestos-containing products and the diagnosis, or

- ii. a history of the claimant's exposure sufficient to establish a ten-year latency period.

A finding by a physician after the Petition Date that a claimant's disease is "consistent with" or "compatible with" asbestosis shall not alone be treated by the Trust as a diagnosis.

*For Disease Levels I-IV*– Subject to a limited exception for certain claims filed against B&W or any other asbestos defendant in the tort system prior to February 22,2000, all diagnoses of non-malignant asbestos-related disease (Disease Levels I-IV) shall be based, in the case of a claimant who was living at the time the claim was filed, upon a physical examination of the claimant by the physician providing the diagnosis of the asbestos-related disease.

*For Disease Levels V-VI*– All diagnoses of asbestos-related malignant disease shall be based upon either (1) a physical examination of the claimant by the physician providing the diagnosis of the asbestos-related disease, or (2) a diagnosis of such malignant Disease Level by a board-certified pathologist.

In the case of a claimant who was deceased at the time the claim was filed, all diagnoses of a non-malignant asbestos-related disease (Levels I- IV) shall be based upon either:

- i. a physical examination of the claimant by the physician providing the diagnosis of the asbestos-related disease, or
- ii. pathological evidence of the asbestos-related disease, or
- iii. in the case of Disease Levels I-III, evidence of Bilateral Asbestos-Related Nonmalignant Disease, and for Disease Level IV, either an ILO reading of 2/1 or greater or pathological evidence of asbestosis.
- iv. for either Disease Level III or IV, pulmonary function testing.

For a detailed description of the medical evidence requirements by Disease Level see TDP section 5.7(a). You should review this section of the TDP before filing a claim.

**Releases:**

A claimant accepting an offer must execute a full release for all malignancy payments, or a limited release for non-malignancy payments. Any claimant who receives a payment for a non-malignant injury may file a new *personal injury claim* for an asbestos-related malignancy that is *subsequently* diagnosed. Any additional payments to which such claimant maybe entitled shall not be reduced by the amount of the prior payment for a non-malignant disease.

**How To Initiate a Claim:**

If a claimant is qualified and elects to file a claim, he or she must file a complete Claim Form and submit all supporting documentation indicated in the Claim Form.

A sample of the Claim Form is enclosed and maybe copied to provide forms for all claimants represented by a law firm. A claimant must submit the appropriate, fully completed Claim Form, including all supporting information referenced in the form. *To expedite processing, claimants are*

*encouraged to file electronically by following the instructions at the Trust website ([www.bwasbestostrust.com](http://www.bwasbestostrust.com)).*

Claims can be filed electronically using the Trust Online system. To do so, download and complete the E-Filer Agreement (EFA) from the Trust web site ([www.bwasbestostrust.com](http://www.bwasbestostrust.com)). Once that agreement is executed, a Trust Online user ID and password will be provided which can be used to login to the system. Trust Online supports the ability to enter new claims, edit existing claims, cure deficiencies on existing claims, upload and view supporting documents and run a variety of reports on filed claims. These features are designed to simplify and expedite the claim filing process while saving time and money for all parties. Claimants and counsel are encouraged to use these online filing features.

Claims can be filed in-bulk using Trust Online web services. This tool supports the submittal of multiple claims quickly and efficiently. For law firms that have claimant data already in electronic form, the web services may be used to send many claims to the Trust at one time without having to retype them into Trust Online one claim at a time, or submit paper claims. The web services also support the submittal of supporting document images along with the claim records. Contact the Trust for detailed instructions on how to use web services at (866) 665-5790.

Finally, using the Trust Online service it is possible that claim data previously submitted to the Celotex Trust may be used to expedite the preparation and review of claims for the B&W Trust. By using claim information already available in the Celotex Trust systems, the Trust may expedite the processing and approval of B&W claims. In no situation will using existing data negatively impact a review, nor will this information be used without the express approval of the claimant. In addition, there is a sophisticated management reporting tool available in Trust Online to help determine the most efficient way to use information from the Celotex Trust to prioritize and expedite the filing of B&W Trust claims.

**Where To Submit Claim Forms:**

Electronic claim submissions, including document images, can be filed directly through the Trust Online system. There is no need to submit paper claims for Trust Online submissions. All paper submissions to the Trust should be addressed to:

The Babcock & Wilcox Asbestos Personal Injury  
Trust P.O. Box 8890  
Wilmington, DE 19899-8890

**Statutes Of Limitation On Filing a Claim:**

To be eligible for a processing, a claim must meet either:

- i. For claims first filed in the tort system against B&W prior to the Petition Date (February 22, 2000), the applicable federal, state, and foreign statute of limitation and repose that was in effect at the time of the filing of the claim in the tort system, or
- ii. For claims not filed against B&W in the tort system prior to February 22, 2000, the applicable federal, state or foreign statute of limitation that was in effect at the time of the filing with the Trust. However, the running of the relevant statute of limitation may be tolled by a number of factors (see Trust Distribution Procedures, section 5. 1 (a)(2)).

**Doctors and Screening Companies:**

Section 5.7(a)(2) of the Trust Distribution Procedures requires that before making any payment the Trust must have reasonable confidence that the medical evidence provided in support of the Claim is credible and consistent with recognized medical standards. The Trust has determined, based on currently available information, that medical reports from certain doctors and screening companies may not meet the reliability standards of this section. A current list of the doctors and facilities from which the Trust will not accept medical reports is available on the Trust's website ([www.bwasbestostrust.com](http://www.bwasbestostrust.com)). At this time, the Trust will not process claims relying upon medical information from the listed doctors and facilities.

**Questions and Assistance:**

If you have questions concerning the claim filing procedures, instructions or forms, you may reach the DCPF in a variety of ways. For assistance with the bulk upload tool, converting and linking claims or web services, please contact the DCPF websupport at (866)665-5790 or email websupport at [websupport@bwasbestostrust.com](mailto:websupport@bwasbestostrust.com). In addition, the websupport department can provide web-based training for all Trust Online users. A detailed user manual is also available on the Trusts' website at [www.bwasbestostrust.com](http://www.bwasbestostrust.com).

For assistance with specific claim form questions, the status of your claims, or how to resolve a claim deficiency, please contact the Claimant Relations department at (800)708-8925 or by email at [claimantrelations@delcpf.com](mailto:claimantrelations@delcpf.com).

In addition to these resources, the Claimant Relations department offers in-person training sessions at either our Wilmington claims processing facility or at your firm. If you or your staff is interested in participating in a training session, please contact our law firm coordinator at [claimantrelations@delcpf.com](mailto:claimantrelations@delcpf.com) or at (800)708-8925

Sincerely,

Babcock & Wilcox Company Asbestos Personal Injury Settlement Trust Trustees